

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 06 MAY 2004

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Applicant's or agent's file reference MAT/dr	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).	
International Application No. <b>PCT/AU2003/000879</b>	International Filing Date (day/month/year) 9 July 2003	Priority Date (day/month/year) 10 July 2002
International Patent Classification (IPC) or national classification and IPC Int. Cl. <sup>7</sup> A61H 33/00, A61F 7/00		
Applicant CARDOW, Ronald Kenneth et al		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 3 sheets, including this cover sheet.  
☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 3 sheet(s).

3. This report contains indications relating to the following items:

- |      |                                     |   |
|------|-------------------------------------|---|
| I    | <input checked="" type="checkbox"/> | Basis of the report   |
| II   | <input type="checkbox"/>            | Priority  |
| III  | <input type="checkbox"/>            | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| IV   | <input type="checkbox"/>            | Lack of unity of invention  |
| V    | <input checked="" type="checkbox"/> | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| VI   | <input type="checkbox"/>            | Certain documents cited   |
| VII  | <input type="checkbox"/>            | Certain defects in the international application  |
| VIII | <input type="checkbox"/>            | Certain observations on the international application   |

Date of submission of the demand 9 February 2004	Date of completion of the report 20 April 2004
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustalia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  Geoff Sadlier Telephone No. (02) 6283 2114

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**I. Basis of the report****1. With regard to the elements of the international application:\***

- ☐ the international application as originally filed.
- ☒ the description, pages 1-6, as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☒ the claims, pages , as originally filed,  
pages , as amended (together with any statement) under Article 19,  
Pages , filed with the demand,  
pages 7-9, received on 15 April 2004 with the letter of 13 April 2004
- ☒ the drawings, pages 1/5-5/5, as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the sequence listing part of the description:  
pages , as originally filed  
pages , filed with the demand  
pages , received on with the letter of

**2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.**

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

**3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:**

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

**4. The amendments have resulted in the cancellation of:**

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

- ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).*

\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims 1-8	YES
	Claims	NO
Inventive step (IS)	Claims 1-8	YES
	Claims	NO
Industrial applicability (IA)	Claims 1-8	YES
	Claims	NO

**2. Citations and explanations (Rule 70.7)**

The following documents identified in the International Search Report have been considered for the purposes of this report:

D1 - EP 272699  
D2 - WO 1986/001978  
D3 - DE 3343664  
D4 - DE 29720701  
D5 - GB 1544198  
D6 - RU 2033131

The claimed invention relates to an apparatus and method for promoting or assisting the healing of injuries or other abnormalities which are treatable through increased blood circulation to the affected area, it involves alternative applications of a fluid at differing temperatures, and is intended to provide a useful alternative treatment for such injuries.

The solution according to claim 1 includes a spray applicator and a reservoir for said fluid with a pressure pump and fluid heater, the apparatus in use being arranged such that the spray applicator is connected to said pressure pump whereby timed sprays of the fluid from said reservoir at a selected temperature can be applied to said injured area to increase blood circulation.

Documents D1-D5 each disclose a treatment apparatus of the general type described above. For example, document D1 discloses an apparatus (see figure 2) which discharges alternately hot water having a high temperature and hot water having a low temperature so as to obtain a massage effect, said apparatus including a spray applicator (11), a reservoir with heater and pump encompassed with the inclusion of hot water supply machine (6), a temperature setting portion (20) and a period setting portion (21) for allowing timed sprays at the selected temperatures.

However the claimed invention is distinguished from the cited documents by the inclusion of a second source of fluid spray at a temperature below the selected temperature, therefore the subject matter of the claims is new and meets the requirements of Article 33 PCT with regard to novelty and inventive step.

Furthermore, the claimed invention is not obvious in the light of any of the cited documents nor is it disclosed in any obvious combination of them. It is also considered that it would not be obvious to a person skilled in the art in the light of common general knowledge either by itself or in combination with any of these documents.